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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re B.M., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

B.M.,

Defendant and Appellant.

B206019

(Los Angeles County  
Super. Ct. No. TJ16730)

APPEAL from an order of wardship of the Superior Court of Los Angeles County, Charles Q. Clay III, Judge. Affirmed in part, vacated in part, and remanded with directions.

Courtney M. Selan, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Keith H. Borjon and Sharlene A. Honnaka, Deputy Attorneys General, for Plaintiff and Respondent.

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B.M., a minor, appeals from the order of wardship (Welf. & Inst. Code, § 602) entered following a finding that, as alleged in a Welfare and Institutions Code section 777 notice, he violated probation previously granted after a determination that he committed battery (Pen. Code, § 242). The court ordered appellant placed in camp for a maximum period of confinement of eight months, and awarded him 29 days of predisposition credit. We affirm the order of wardship, but vacate the credit award and remand the matter for recalculation of the award.

### ***FACTUAL SUMMARY***

Viewed in accordance with the usual rules on appeal (*In re Dennis B.* (1976) 18 Cal.3d 687, 697), the evidence, the sufficiency of which is undisputed, established that on August 28, 2007, appellant battered his mother in Los Angeles County.

### ***CONTENTION***

Appellant claims he is entitled to additional predisposition credit.

### ***DISCUSSION***

*Appellant is Entitled to Additional Predisposition Credit.*

#### ***1. Pertinent Facts.***

On August 1, 2007, appellant admitted an allegation in a petition that he committed battery in June 2007, and the court sustained the petition. On August 1, 2007, the court ordered appellant placed on probation pursuant to Welfare and Institutions Code section 725, and awarded him 21 days of predisposition credit.

On October 18, 2007, the court found true an allegation in a second petition that appellant committed the present battery, and the court sustained the petition. On October 18, 2007, the court found appellant in violation of probation and declared him to be a ward of the court. The court ordered that custody of appellant be taken from his parents, and that he be placed in the custody of the probation officer and suitably placed.

The court calculated appellant's maximum confinement period as eight months.<sup>1</sup> The court ordered appellant detained in juvenile hall. The reporter's transcript for October 18, 2007, reflects that, on that date, the court awarded appellant a total of 44 days of predisposition credit, consisting of 21 days for the first petition and 23 days for the second petition.<sup>2</sup>

A probation officer's detention report prepared for an October 30, 2007 hearing reflects that on October 23, 2007, appellant was placed at the Rancho San Antonio facility. On October 25, 2007, he left placement without permission and, on October 26, 2007, he surrendered himself to Los Padrinos Juvenile Hall. The October 30, 2007 minute order reflects that, on that date, the court ordered appellant detained in juvenile hall pending release to suitable placement.

A "probation officer's report [¶] 15-day detention review" (capitalization omitted) filed on November 15, 2007, states, "On 10/18/07 the court ordered suitable placement[.] [¶] Minor has been detained 15 days since the above ordered disposition. . . . [¶] . . . [¶] Minor was released and transported to suitable placement (Rancho San Antonio) on 10/23/07." (Some capitalization omitted.)

A probation officer's detention report prepared for a November 21, 2007 hearing reflects that on November 16, 2007, appellant left his placement at the Trinity Apple Valley facility without permission. He was arrested on November 19, 2007.

A probation officer's report and Welfare and Institutions Code section 777 notice filed on November 27, 2007, appears to reflect appellant was detained on November 21, 2007. The reporter's transcript for November 21, 2007, reflects that, on that date, the

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<sup>1</sup> This appears to have been an aggregated period consisting of six months for the first battery, with a consecutive term of two months for the second battery (as one-third of the six months for the first battery). (Cf. *In re Eric J.* (1979) 25 Cal.3d 522, 538, *In re Luis H.* (1986) 187 Cal.App.3d 546, 549.)

<sup>2</sup> The minute order for October 18, 2007, however, reflects a total award of 23 days of predisposition credit.

court ordered that appellant remain detained pending preparation of a progress report, scheduled further proceedings for November 27, 2007, ordered appellant to return on that date, and ordered the probation department to transport him. The November 21, 2007 minute order reflects that, on that date, the court ordered appellant to remain in juvenile hall.

The November 27, 2007 minute order reflects appellant denied the allegations of the Welfare and Institutions Code section 777 notice, and that the court ordered that he remain detained in juvenile hall.

On December 17, 2007, the court found true the Welfare and Institutions Code section 777 notice allegations and, at the disposition hearing that then followed, the court ordered appellant placed in camp for a maximum period of confinement of eight months. The court awarded appellant a total of 29 days of predisposition credit for the period November 19, 2007, to December 17, 2007, inclusive.

## *2. Analysis.*

Appellant claims in his opening brief that he is entitled to a total of 102 days of predisposition credit, consisting of (1) 21 days for the custody he served as of August 1, 2007, (2) 23 days for the additional custody he served as of October 18, 2007, (3) 29 days for the custody he served from October 19, 2007, through November 16, 2007, inclusive, and (4) 29 days for the custody he served from November 19, 2007, through December 17, 2007, inclusive.<sup>3</sup>

Respondent essentially concedes appellant is entitled to additional predisposition credit (cf. *In re Eric J.* (1979) 25 Cal.3d 522, 533-536; *In re Emilio C.* (2004) 116 Cal.App.4th 1058, 1067-1068), but indicates the record is ambiguous with respect to what credit should be awarded for the period of 29 days from October 19, 2007, through November 16, 2007, inclusive. The record suggests appellant was in custody during this

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<sup>3</sup>

Appellant also observes that the October 18, 2007 minute order (see fn. 2) should be corrected to reflect a total award as of that date of 44 days of predisposition credit, consisting of 21 days for the custody he served as of August 1, 2007, plus 23 days for the additional custody he served as of October 18, 2007.

period, but the previously mentioned “probation officer’s report [¶] 15-day detention review” appears to indicate that appellant was in custody only 15 days during the period from October 19, 2007, through November 15, 2007, when that report was filed. Respondent argues the matter should be remanded for recalculation of credits, and appellant, by supplemental letter, agrees. We will remand the matter for recalculation of predisposition credit.<sup>4</sup>

### ***DISPOSITION***

The order of wardship is affirmed, except that the trial court’s December 17, 2007 order awarding predisposition credit is vacated and the matter is remanded to the trial court with directions to recalculate appellant’s predisposition credit consistent with this opinion.

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KITCHING, J.

We concur:

CROSKEY, Acting P. J.

ALDRICH, J.

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<sup>4</sup> We are confident that, following remand, the trial court will correct its October 18, 2007 minute order (see fns. 2 & 4).